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106TH CONGRESS }
2d Session }

SENATE

{ REPORT
106-320

WILSON CREEK, NORTH CAROLINA

JUNE 27, 2000.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 1749]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 1749) to designate Wilson Creek in Avery and Caldwell Counties, North Carolina, as a component of the National Wild and Scenic Rivers System, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE OF THE MEASURE

The purpose of H.R. 1749 is to designate a 23.3-mile segment of Wilson Creek in Avery and Caldwell Counties, North Carolina, as a component of the National Wild and Scenic Rivers System.

BACKGROUND AND NEED

Wilson Creek is located in Caldwell and Avery Counties, North Carolina, originating on the upper slopes of Calloway Peak on Grandfather Mountain. The creek flows freely for a distance of 23.3 miles, all except 2.1 miles being located within the Proclamation Boundary of the Pisgah National Forest, and joins Johns River in Caldwell County, North Carolina. Although it is within the Proclamation Boundary, the creek traverses both public and private lands. Approximately 12.8 river miles and 58 percent of the $\frac{1}{4}$ mile wide study corridor is under private ownership.

In 1987, the Final Environmental Impact Statement for the Nantahala and Pisgah National Forests Management Plan determined Wilson Creek to be eligible for inclusion in the National Wild and Scenic Rivers System. In 1998, members of the Caldwell County Commission expressed an interest in pursuing a Wild and Scenic River designation for Wilson Creek. County interests include

long-term protection for the creek, prohibition of dams and diversions, increased public awareness of the creek's values, and a framework for managing issues like sewage discharge, trespass, and overuse of recreation sites. After determining that there is substantial public support for designation of Wilson Creek as a component of the National Wild and Scenic Rivers System, both Avery and Caldwell County Commissions have passed resolutions in support of such a designation.

LEGISLATIVE HISTORY

The House of Representatives passed H.R. 1749 on February 29, 2000. The Subcommittee on National Parks, Historic Preservation, and Recreation held a hearing on H.R. 1749 on April 27, 2000. At its business meeting on June 7, 2000, the Committee on Energy and Natural Resources ordered H.R. 1749 favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on June 7, 2000, by a unanimous vote of a quorum present, recommends that the Senate pass H.R. 1749 as described herein.

SECTION-BY-SECTION ANALYSIS

Section 1 amends section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) by adding a new paragraph (161) designating a 23.3-mile segment of Wilson Creek in the State of North Carolina as a component of the National Wild and Scenic Rivers System, and identifies the portions that are classified as wild, scenic, or recreational.

New subparagraph (161)(B) prohibits the Federal Government from undertaking condemnation proceedings against the private property of T. Henry Wilson in order to acquire public right-of-way or access to the area of Wilson Creek designated as a wild river.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 8, 2000.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget office has prepared the enclosed cost estimate for H.R. 1749, an act to designate Wilson Creek in Avery and Caldwell counties, North Carolina, as a component of the National Wild and Scenic Rivers System.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

STEVEN LIEBERMAN
(For Dan L. Crippen, Director).

Enclosures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 1749—An act to designate Wilson Creek in Avery and Caldwell counties, North Carolina, as a component of the Wild and Scenic River System

H.R. 1749 would designate a 23-mile segment of Wilson Creek in North Carolina as a component of the Wild and Scenic River System, to be administered by the U.S. Forest Service. Based on information provided by the Forest Service, administering the Wilson Creek segment would have no significant impact on federal spending. The river segment would remain undeveloped.

Because H.R. 1749 would not affect direct spending or receipts, pay-as-you-go procedures would not apply. The act contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On February 29, 2000, CBO transmitted a cost estimate for H.R. 1749 as ordered reported by the House Committee on Resources on February 16, 2000. The two versions of the legislation are identical, as are the cost estimates.

The CBO staff contact is Deborah Reis. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 1749. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 1749, as ordered reported.

EXECUTIVE COMMUNICATIONS

On April 27, 2000, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on H.R. 1749. These reports had not been received at the time the report on H.R. 1749 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the U.S. Forest Service at the Subcommittee hearing follows:

STATEMENT OF RANDLE G. PHILLIPS, DEPUTY CHIEF FOR
PROGRAMS AND LEGISLATION, U.S.D.A. FOREST SERVICE

Mr. Chairman and members of the subcommittee, thank you for the opportunity to be here today and present the Administration's views concerning H.R. 1749, a bill to designate a 23.3 mile segment of Wilson Creek, North Caro-

lina as part of the National Wild and Scenic Rivers System.

The Administration supports enactment of H.R. 1749 designating 23.3 miles of Wilson Creek in Avery and Caldwell Counties, North Carolina, as a component of the National Wild and Scenic Rivers System. The wild, scenic and recreational river corridor would generally extend $\frac{1}{4}$ mile from the ordinary high water mark on each side, running the length of the river. Within the corridor is 9.9 miles of national forest system lands, 0.6 miles of Blue Ridge Parkway and 12.8 miles of private lands. Detailed boundaries of the entire river corridor will be prepared in accordance with the Wild and Scenic Rivers Act within a year of the river's designation.

The outstandingly remarkable values of the Wilson Creek corridor include scenery, recreation, geology, fish and wildlife, botanical communities, and historic and cultural sites. Wilson Creek was identified on the 1982 Nationwide River Inventory (National Park Service) for potential inclusion in the National Wild and Scenic Rivers System. In 1987, the Final Environmental Impact Statement for the Nantahala and Pisgah National Forests Land and Resource Management Plan determined Wilson Creek eligible for designation.

In December 1998, members of the Caldwell County Commission expressed interest in pursuing Wild and Scenic River designation for Wilson Creek. County interests include long term protection for the Creek, prohibition of dams and diversions, increased public awareness of the Creek's values, and a framework for managing issues such as sewage discharge, trespass, and overuse of recreation sites. County interests are consistent with Forest Service management objectives for the corridor.

After receiving much public comment in favor of designation from several public meetings in both Caldwell and Avery Counties, the County Commissioners have passed resolutions in support of designation. Avery County passed its resolution March 29, 1999 and Caldwell County passed its April 19, 1999. County staff estimates 85–90% of landowners within the study corridor were contacted about Wild and Scenic River status. The County received verbal comments in support and one letter of concern. The one concern was specifically addressed in the proposed legislation.

This concludes my statement. I would be happy to answer any questions you and the members of the subcommittee might have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill H.R. 1749, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, exiting law in which no change is proposed is shown in roman):

SECTION 3 OF THE WILD AND SCENIC RIVERS ACT

SEC. 3. (a) The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system:

(1) * * *

* * * * *

(161) *WILSON CREEK, NORTH CAROLINA.*—(A) *The 23.3 mile segment of Wilson Creek in the State of North Carolina from its headwaters to its confluence with Johns River, to be administered by the Secretary of Agriculture in the following classifications:*

(i) *The 2.9 mile segment from its headwaters below Calloway Peak downstream to the confluence of Little Wilson Creek, as a scenic river.*

(ii) *The 4.6 segment from Little Wilson Creek downstream to the confluence of Crusher Branch, as a wild river.*

(iii) *The 15.8 segment from Crusher Branch downstream to the confluence of Johns River, as a recreational river.*

(B) *The Forest Service or any other agency of the Federal Government may not undertake condemnation proceedings for the purpose of acquiring public right-of-way or access to Wilson Creek against the private property of T. Henry Wilson, Jr., or his heirs or assigns, located in Avery County, North Carolina (within the area 36°, 4 min., 21 sec. North 81°, 47 min., 37° West and 36°, 3 min., 13 sec. North and 81° 45 min. 55 sec. West), in the area of Wilson Creek designated as a wild river.*